



PUBLIC NOTICE

Federal Communications Commission
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DA 18-1161
November 15, 2018

FINAL NOTICE OF INTENT TO DECLARE THE INTERNATIONAL SECTION 214 AUTHORIZATION OF WX COMMUNICATIONS LTD. TERMINATED

File No. ITC-214-20080825-00405

By this Public Notice, the International Bureau (Bureau) affords WX Communications Ltd. (WX Communications) final notice and opportunity to respond to the July 23, 2018 letter submitted by the Department of Homeland Security (DHS) with the concurrence of the Department of Justice (DOJ) (collectively, the “Executive Branch Agencies”).¹ The Executive Branch Agencies request that the FCC terminate, declare null and void and no longer in effect, and/or revoke the international Section 214 authorization issued to WX Communications under file number **ITC-214-20080825-00405**.² The Executive Branch Agencies make this request because they believe WX Communications is no longer in business and therefore unable to comply with the commitments and undertakings contained in the March 16, 2009 Letter of Assurance (LOA) that WX Communications entered into with the Executive Branch Agencies and compliance with which is an express condition of WX Communications’ international Section 214 authorization.³

On August 28, 2018, the Bureau’s Telecommunications and Analysis Division sent a letter to WX Communications at the last known addresses on record via certified, return receipt mail asking WX Communications to respond to the Executive Branch Agencies’ allegations and possible violations of the Commission’s rules by September 27, 2018.⁴ The *WX Communications Letter* stated that failure to respond will be deemed as an admission of the facts alleged by the Executive Branch Agencies and the Commission and will result in the issuance of an order to terminate WX Communications’ international Section 214 authorization.⁵ We did not receive a response from WX Communications.⁶

¹ Letter from Phil Ludvigson, Director, Foreign Investment Risk Management, Office of Policy, U.S. Department of Homeland Security, to Marlene H. Dortch, Secretary, FCC (July 23, 2018) (*DHS Letter*).

² *Id.* at 1; FCC, *International Bureau, International Authorizations Granted*, Report No. TEL-0 1368, Public Notice, 24 FCC Rcd 8161 (IB 2009).

³ *DHS Letter* at 1; Letter from Ray Usher, Authorized Representative, WX Communications Ltd., to Assistant Attorney General, National Security Division, U.S. Department of Justice, and Assistant Secretary for Policy, U.S. Department of Homeland Security (March 16, 2009).

⁴ Letter from Denise Coca, Division Chief, Telecommunications and Analysis Division, International Bureau, FCC to Ray Usher, WX Communications Ltd. at 1 (Aug. 28, 2018) (*WX Communications Letter*). A copy of this letter, the *DHS Letter*, and the LOA may be viewed on the FCC’s website through IBFS at <http://licensing.fcc.gov/myibfs/> by searching for File No. ITC-214-20080825-00405 and accessing the “other filings related to this application” from the Document Viewing area.

⁵ *Id.* at 2.

⁶ The *WX Communications Letter* was sent via certified mail, return receipt to Ray Usher and to Jan Maarten Bogaerts, the contacts listed on the international Section 214 application (35 Barrack Rd., Belize, BLZ). The letters (continued....)

Additionally, WX Communications may be in violation of several other Commission statutory and rule provisions. The *WX Communications Letter* states that WX Communications failed to inform the Commission of any changes in its business status of providing international telecommunications service, as required by Section 63.21(a) of the Commission's rules.⁷ The *WX Communications Letter* also states there is no indication that WX Communications is currently providing service pursuant to its international Section 214 authorization and if WX Communications has discontinued service that affected customers, it may also be in violation of Section 63.19(a) of the Commission's rules requiring prior notification for such a discontinuance.⁸ Further, as part of its authorization, WX Communications was required to file an annual international telecommunications traffic and revenue report, as required by Section 43.62 of the Commission's rules which was in effect until April 2018.⁹ Section 43.62(b) stated that "[n]ot later than July 31 of each year, each person or entity that holds an authorization pursuant to section 214 to provide international telecommunications service shall report whether it provided international telecommunications services during the preceding calendar year."¹⁰ WX Communications, however, did not submit traffic and revenue reports indicating whether or not it provided services for the 2014 and 2015 reporting periods and may have violated Section 43.62 of the Commission's rules.¹¹

WX Communications' failure to respond to this Public Notice will be deemed as an admission of the facts alleged by the Executive Branch Agencies and of the violations of the statutory and rule provisions set out above. The Bureau hereby provides final notice to WX Communications that it intends to take action to declare WX Communication's international Section 214 authorization terminated for failure to comply with conditions of its authorization. We further advise WX Communications that its non-compliance with the applicable regulatory provisions would warrant termination wholly apart from demonstrating WX Communication's inability to satisfy the conditions of its authorization. **WX Communications must respond no later than 15 days of the date of this Public Notice and address the issues alleged in the *DHS Letter*.**

The Bureau is serving a copy of the Public Notice on WX Communications by certified mail, return receipt requested, at the last addresses of record appearing in Commission records. WX Communications should send its response to Denise Coca, Chief, Telecommunications and Analysis Division, International Bureau via email at Denise.Coca@fcc.gov and to Veronica Garcia-Ulloa, Attorney Advisor, Telecommunications and Analysis Division, International Bureau at Veronica.Garcia-Ulloa@fcc.gov and file it in IBFS under File No. **ITC-214-20080825-00405** at <http://licensing.fcc.gov/myibfs/pleading.do>.

The proceeding in this Notice shall be treated as a "permit-but-disclose" proceeding in

mailed to Ray Usher were returned to sender. As of the date of this letter, the mailing sent to Jan Maarten, although mailed to same address as Ray Usher, has not been returned. We also sent the *WX Communications Letter* to the last known email (wxa@gxm.com). We received an automatic electronic reply stating that delivery to recipient was complete, but no delivery notification was sent by the destination server.

⁷ *WX Communications Letter* at 1 (stating that after having received an international Section 214 authorization, pursuant to Section 63.21(a), a carrier "is responsible for the continuing accuracy of the certifications made in its application" and must correct information no longer accurate, "and in any event, within thirty (30) days"). 47 CFR § 63.21(a).

⁸ *Id.* at 2, n.5. 47 CFR § 63.19(a).

⁹ *Id.* at 2, n.6 (citing 47 CFR § 43.62(b) and providing subsequent history).

¹⁰ 47 CFR § 43.62(b) (2015).

¹¹ *WX Communications Letter* at 2, n.8.

(continued....)

accordance with the Commission's *ex parte* rules.¹² Persons making *ex parte* presentations must file in IBFS, under File No. **ITC-214-20080825-00405**, a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b).¹³ In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For further information, please contact Veronica Garcia-Ulloa, Attorney Advisor, Telecommunications and Analysis Division, International Bureau, (202) 418-0481.

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¹² 47 CFR § 1.1200 *et seq.*

¹³ 47 CFR § 1.1206(b).